



FEDERAL ELECTION COMMISSION
Washington, DC 20463

NOV -5 2015

Mr. Brian Foley

Simsbury, CT 06070

RE: MUR 6566

Dear Mr. Foley:

The Federal Election Commission ("Commission"), the regulatory agency that administers and enforces the Federal Election Campaign Act of 1971, as amended ("the Act"), has ascertained information in the normal course of carrying out its supervisory responsibilities indicating that you may have committed violations of the Act. *See* 52 U.S.C. § 30109(a)(2). Specifically, transcripts of your testimony from the jury trial in *United States v. Rowland*, No. 3:14-cr-79 (D. Conn. 2014) and additional information available to the Commission indicate that you took the following actions:

1. Paid four individuals — Patricia Hyypa, Johanna Hyypa, Jeremy Vearil, and Kenneth Lewis — approximately \$7,500 apiece for the purpose of making or reimbursing contributions to Lisa Wilson Foley for Congress ("Committee").
2. Ordered businesses you own or control to pay dividends to three or more of your children, which you deposited in bank accounts belonging to each child and subsequently used to make contributions to the Committee in the name of each child totaling approximately \$7,500 apiece.
3. Gave \$500,000 of your own, separately-held assets to your wife, Lisa Wilson-Foley, for the purpose of contributing to the Committee, which she did then deposit in her own separate accounts and contribute or loan to the Committee.

Transcript of Record, *United States v. Rowland*, No. 3:14-cr-79 (D. Conn. Sept. 5, 8-9, 2014) (Docs. 157-58). Copies of the relevant portions of the transcripts are attached. These transactions may implicate the Act's prohibition on contributions in the name of another, *see* 52 U.S.C. § 30122, the applicable contribution limits under the Act, *see* 52 U.S.C. § 30116(a), and the Act's prohibition on corporate contributions, *see* 52 U.S.C. § 30118.

In addition, the Commission received two complaints alleging violations of the Act or Commission regulations regarding payments to former Connecticut Governor John Rowland for the purpose of consulting for the Committee during 2011 and 2012. Copies of those

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complaints are enclosed.¹ Although the complaints do not name you as a respondent, it appears that your activities fall within the scope of the alleged violations described in the complaints. You therefore are being provided this notice of the complaints and an opportunity to respond to its allegations, if you wish to do so. *See* 52 U.S.C. § 30109(a)(1).

Specifically, information available to the Commission indicates that you personally may have been responsible for making payments to Rowland for the purpose of providing consulting services to the Committee, and that you may have done so with knowledge that such payments were in excess of applicable contribution limits, in violation of 52 U.S.C. §§ 30116(a) and 30116(f). The Commission is aware that on March 31, 2014, you pleaded guilty to conspiracy to commit a violation of provisions of the Act in connection with making payments to Rowland. Stipulation of Offense Conduct, *United States v. Foley*, No. 3:14-CR-65 (D. Conn. Mar. 31, 2014).

The Office of General Counsel is reviewing this information to determine whether we should recommend to the Commission that there is reason to believe that you violated the Act or Commission regulations. A "reason to believe" finding is not a finding that any person violated the Act; rather, it means only that the Commission believes a violation may have occurred. In the event the Commission finds that there is reason to believe, it may authorize the Office of General Counsel to conduct an investigation to determine whether, in fact, a violation occurred or to assess the scope of the possible violations. *See* 52 U.S.C. § 30109(a)(2).

Before we make a recommendation to the Commission, we offer you the opportunity to provide in writing a response to the above information. Should you choose to respond, you may also submit any materials — including documents or affidavits from persons with relevant knowledge — that you believe may be relevant or useful to the Commission's consideration of this matter. The Commission will take into account any additional information you provide in determining whether to find reason to believe that you violated the Act or Commission regulations.

Your response, if you choose to make one, must be submitted in writing within 15 days of this letter's receipt. You should address any response to the Office of General Counsel. After 15 days, we will make our recommendations to the Commission. The Commission will then consider the recommendations and take appropriate action.

This matter will remain confidential unless you notify the Commission in writing that you wish the matter to be made public. *See* 52 U.S.C. §§ 30109(a)(4)(B) and 30109(a)(12). If you intend to be represented by counsel in this matter, please complete the enclosed form and return it to the Commission. Please be advised that, although the Commission cannot

¹ The Commission merged the two complaints into Matter Under Review ("MUR") 6566.

disclose information regarding an investigation to the public, it may share information on a confidential basis with other law enforcement agencies.²

If you have any questions, please contact me at (202) 694-1650 or toll free at 1-800-424-9530. Information is also available on the Commission's web site at www.fec.gov.

Sincerely,



Meredith K. McCoy
Attorney

Enclosures

Complaint, MUR 6566 (May 2, 2012)

Complaint, MUR 6604 (July 2, 2012)

Transcript of Record, *United States v. Rowland*, No. 3:14-cr-79 (D. Conn. Sept. 5, 8-9, 2014) (Docs. 157-58)

Designation of Counsel Form

² The Commission has the statutory authority to refer knowing and willful violations of the Act to the Department of Justice for potential criminal prosecution, 52 U.S.C. § 30109(a)(5)(C), and to report information regarding violations of law not within its jurisdiction to appropriate law enforcement authorities. *Id.* § 30107(a)(9).

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1 "I got static," what was his demeanor like?

2 A. It was just -- he said "How about a \$10,000
3 bonus if Lisa wins the convention."

4 Q. Was he laughing at that time?

5	A.	No.
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6 Q. Did you guys ever discuss it again?

7 | A. No.

8 Q. All right, Mr. Foley. Did you make
9 donations to your wife's campaign?

10	A. Pardon me?
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11 Q. Did you make donations to your wife's
12 campaign?

13 | A. I did.

14 Q. Did you understand that there was like a
15 maximum amount of donations a person could make?

16 | A. Yes.

17 Q. What did you understand that to be?

18	A.	\$7,500.
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19 Q. And did you make the max donation?

20	A. I did.
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21 Q. How early on did you make the max donation?

22 A. Within probably the first three months of.
23 her campaign.

24 Q. Mr. Foley, did you have an understanding if
25 you were to give money to the campaign effort

1 whether or not it should be reported?

2 A. I did. I'm going to clarify a little bit.

3 Q. Sure thing.

4 A. I understood I could give my wife money
5 directly which she could contribute, but in terms of
6 my contribution to the campaign, I understood I was
7 maxed out at 7,500.

8 Q. And, Mr. Foley, so you are maxed out at
9 7,500. Did you want to make more contributions to
10 the campaign?

11 A. Yes.

12 Q. Did you arrange with other people to make
13 contributions to the campaign?

14 A. Yes.

15 Q. Mr. Foley, can you tell us who Ken Lewis
16 is?

17 A. Ken Lewis is my best friend from seventh
18 grade, and he still works for me currently.

19 Q. Did you make an arrangement with him?

20 A. I had an understanding if he donated to
21 Lisa's campaign that I would make good on it.

22 Q. When you say "make good" what do you mean?

23 A. In some way reimburse him for it.

24 Q. Mr. Foley, who is Jeremy Doreal (ph)?

25 A. Jeremy is my nephew.

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1 Q. Did you have any sort of arrangement with
2 him?

3 A. I did. Jeremy -- he came to live with me
4 when he was about 14 years old, and still works for
5 me today. And it was the same understanding, that
6 if he would donate to Lisa's campaign that I would
7 in some way reimburse him.

8 Q. Mr. Foley, who is Patty Hyyppa?

9 A. Patty Hyyppa is my sister.

10 Q. Mr. Foley, did you do anything with her
11 regarding the campaign?

12 A. I did. And Patty works for me as well. It
13 was the same understanding, that if she donated to
14 Lisa's campaign, that I would in some way reimburse
15 her.

16 Q. Who is Johanna Hyyppa?

17 A. Johanna Hyyppa is my niece, Patty's
18 daughter.

19 Q. How about her, anything involving her?

20 A. The same arrangement, if she donated to the
21 campaign I would in some way reimburse her.

22 Q. Mr. Foley, did you think you were allowed
23 to do this?

24 A. No.

25 Q. Were any of these payments reported to the

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1 | FEC?

2 | A. No.

3 Q. How about the payments to Rowland, Mr. .
4 Foley? You say you were paying Rowland to work on
5 the campaign. Were those reported to the FEC?

6 | A. No, they were not.

7 Q. Were they ever reported as an expenditure
8 to the FEC?

9	A.	Nò .
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10 Q. Mr. Foley, I would like you to take a look
11 at Government Exhibit 601. Mr. Foley, did you plead
12 guilty in this case?

13 | A. I did.

14 Q. Is this your guilty plea -- is this your
15 plea agreement?

16 A. It is.

17 Q. And I would like you to take a look at
18 Exhibit 600. Mr. Foley, did you also enter into a
19 cooperation agreement with the government?

20 | A. I did.

21 Q. Is Exhibit 600 that copy?

22 | A. Yes.

23 MR. BRENNAN: Your Honor, I would move
24 601 and 600 into evidence.

25 THE COURT: Full exhibits.

1 A. Yes.

2 Q. Mr. Foley, did that day when Mr. Rowland
3 made that pitch with these notes do you do you
4 remember all of those things he told he could do?

5 A. Yes.

6 Q. Did he do all of those things for the
7 campaign?

8 A. Yes.

9 Q. And was that what he was paying for?

10 A. Yes.

11 MR. BRENNAN: Thank you, your Honor I
12 have no further questions.

13

14 THE COURT: Cross-examination.

15 MR. WEINGARTEN: It will take a couple
16 minutes just to get organized.

17 May I proceed, your Honor?

18 THE COURT: You may.

19 CROSS-EXAMINATION

20 BY MR. WEINGARTEN:

21 Q. Mr. Foley. Good morning, sir.

22 A. Good afternoon.

23 Q. My name is Reid Weingarten. I represent
24 Mr. Rowland. And we have never met, have we?

25 A. We have not. I think I may have seen you

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1 from you, correct?

2 A. Yes.

3 Q. And this Mr. Shelton, he's your inside
4 counsel; is he not?

5 A. He is.

6 Q. So he's the general counsel and chief
7 compliance officer for the Apple empire. Fair?

8 A. Yes.

9 Q. I just want to get these points clear.
10 Now, you keep using the word "legitimization." Do
11 you remember?

12 A. I do.

13 Q. Okay. Is it fair to say that as a matter
14 of English what legitimization means is to make
15 legitimate?

16 A. Yes.

17 Q. Okay. Just a few more points that I want
18 to clarify and then we'll get started. So you went
19 through this matter of your friends and employees
20 and relatives making campaign contributions very,
21 very quickly. I just want to make sure, I have one
22 now, and that would be your sister?

23 A. Yes.

24 Q. So would this be in 2012 and 2010?

25 A. Just 2012.

1 Q. Did you follow this practice in 2010?

2 A. I would have to go back and look in 2010.

3 You mean the lieutenant governor race?

4 Q. Yes.

5 A. I would have to go back and look at their
6 actual contributions.

7 Q. The common name for this activity, which is
8 criminal of course, is straw donations?

9 A. Conduit donors, the same thing.

10 Q. The same thing?

11 A. Yes.

12 Q. So did I understand your testimony
13 correctly that you contacted your sister and said,
14 sis, I want you to contribute to Lisa's campaign in
15 2012 and I'll make you whole?

16 A. Actually, she called me.

17 Q. Okay. And she suggested it and you agreed
18 to it?

19 A. She said -- she suggested it, yes, and I
20 agreed to it. Yes.

21 Q. And that's, in fact, what happened,
22 correct?

23 A. That's correct.

24 Q. And it also happened with her daughter?

25 A. Yes.

1 Q. Okay. So did you know that you were
2 engaging in federal criminal wrongdoing when you did
3 this?

4 A. Yes.

5 Q. And did you willingly put your sister and
6 her daughter at risk?

7 A. I guess I did, yes.

8 Q. So your wife's congressional campaign was
9 so important to you that you put your sister at
10 federal criminal risk? Is that what you are saying
11 to this jury?

12 A. What I'm saying is that -- with my sister
13 and my niece, is that there was an understanding,
14 and I thought it would be clean enough that if we
15 went to trial that there was no quid pro quo.

16 Q. Did you, in fact, reimburse your sister and
17 her daughter for these contributions?

18 A. Yes.

19 Q. So you committed a crime, right?

20 A. Yes.

21 Q. You put yourself at risk, correct?

22 A. Yes.

23 Q. And you thought helping Lisa's campaign
24 treasure was worth putting yourself at risk?

25 A. Yes.

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1 Q. And you did the same for your sis, correct?

2 A. Yes.

3 Q. And you thought, in truth, you would get
4 away with it, correct?

5 A. Yes.

6 Q. Was your sister an unwitting dupe or did
7 she, too, know she was committing federal crimes?

8 A. No, it was her idea. And, in fact, she
9 wrote me an e-mail and she said in the e-mail "how
10 about you pay these bills," she had some specific
11 bills and then, you know, "and then you reimburse me
12 in some way."

13 Q. Did you have any reason to believe that
14 either your sister or her daughter knew that they
15 were committing federal crimes while they were
16 helping Lisa?

17 A. I don't think they believed they were.

18 Q. So they were dupes?

19 A. Well, she wrote the e-mail and she said
20 "pay for these specific bills," and I said "no."

21 Q. Well, she wanted you to reimburse her,
22 correct?

23 A. Yes.

24 Q. But she didn't know she was committing a
25 federal crime?

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1 A. Yes.

2 Q. What about your guardian or your --

3 A. My nephew.

4 Q. Same with him?

5 A. Do you know, it is the same, but there's a
6 history of them having contributed, and, I mean, my
7 nephew, I paid two- or three-hundred thousand
8 dollars a year to, many millions over the years. So
9 there was also an understanding now if they
10 contribute to the campaign that I would continue to
11 be generous without going into specifics.

12 Q. They would generally be reimbursed,
13 correct?

14 A. Yes, they would be generally reimbursed but
15 without the specifics of --

16 Q. So you were willing to put your nephew at
17 risk, too, for Lisa's campaign?

18 A. Yes, I didn't think the risk was great, but
19 yes, to answer your question.

20 Q. And you thought you would get away with it.

21 A. Yes.

22 Q. How about your buddy, the guy you went to
23 school with? I forget his name.

24 A. Ken Lewis.

25 Q. Ken Lewis. The same thing with him?

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1 A. The same thing.

2 Q. So you were prepared to commit a federal
3 crime for Ken Lewis, correct, for Lisa's campaign?

4 A. Yes.

5 Q. Put yourself at risk, correct?

6 A. Yes.

7 Q. And put your buddy at risk, too?

8 A. At risk -- I didn't see the risk as being
9 great. So, yes. The answer to your question, yes.

10 Q. So if there is a conduit campaign
11 contribution, the person making the contributions is
12 culpable, correct?

13 A. Yes.

14 Q. And the person who is reimbursing the maker
15 is culpable, too, correct?

16 A. It has to be proved.

17 Q. So you were confident that through your
18 means that none of this conduit campaign
19 contribution stuff would get out, right?

20 A. Yes, because there was just an
21 understanding and there wasn't the confirmation I'll
22 pay for this and so forth, so yes.

23 Q. So did you involve your children as well?

24 A. I did.

25 Q. How many kids did you get involved in this

1 conduit scheme?

2 A. With the children -- there's three of my
3 children whose records were subpoenaed for the
4 contributions that they -- three of the children
5 made to my wife's campaign.

6 Q. So three of your children are put at risk
7 because of your desire to make Lisa's campaign war
8 chest look good, right?

9 A. Well, with my children, the three children,
10 I -- the three older children, I've controlled -- I
11 have accounts for them where there is many, many
12 millions of dollars I've put away for them, and I
13 have their approval to buy -- they don't know what's
14 in the accounts. I've always had their approval to
15 do whatever I wanted to do with the account. But I
16 did not call them and say to them, hey, look, I'm
17 going to take 7,500 from your account that has
18 millions in it to give to Lisa. I did not call
19 them. However, they will tell you that I've always
20 had their approval to do whatever I wanted to do.

21 Q. So their risk was a little bit less than
22 your sister's, correct?

23 A. I don't think there was any risk on that
24 one because I had their -- but my concern -- I don't
25 think the risk was greater, but my concern was

1 mostly about them. I did not want them to be
2 subpoenaed in then front of a grand jury.

3 Q. The whole point here is that you were
4 willing to engage in this kind of criminal activity.

5 A. Yes.

6 Q. Because you didn't think you were going to
7 get caught.

8 A. Yes.

9 Q. And is that how you engage in the world
10 generally?

11 A. No.

12 Q. So just in terms of Lisa Foley's
13 congressional campaign, you were willing to commit
14 crimes, and nowhere else do you calculate the risk
15 and commit crimes when you are able to get away with
16 them?

17 A. No. In the campaign, in particular, I
18 thought the risk was very little because there was
19 never quid pro quo. There was an understanding.
20 There was a history with my sister. In the two
21 years before that I gave her \$300,000 to help out
22 with her. So I didn't think the risk was great, no.

23 Q. So the reason you didn't think the risk was
24 great, let's take your sister, for example --

25 A. Okay.

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1 Q. -- there was no explicit quid pro quo?

2 A. There was not.

3 Q. And there was just some general
4 understanding that if she contributed to Lisa's
5 campaign --

6 A. Yes.

7 Q. -- you'd make her whole?

8 A. Yes, there was.

9 Q. And nothing explicit?

10 A. Correct.

11 Q. And as a result of that, you didn't think
12 she was exposed, correct?

13 A. I thought the risk was very low that she
14 would be exposed, that's correct.

15 Q. Just a couple more points before we dig in.
16 I want to ask about your preparation for trial.
17 About how many times did you meet with the
18 prosecutors?

19 A. I met with them about ten times.

20 Q. Okay. And I heard you on more than one
21 occasion anticipate what you were going to be asked,
22 and you say something to the effect "we'll come to
23 that," "we'll get to that."

24 A. That's correct.

25 Q. Do you recall that?

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1 A. 2009, yes.

2 Q. And she runs for lieutenant governor?

3 A. Correct.

4 Q. And she makes a nice showing?

5 A. Yeah, she did.

6 Q. And she was enthusiastic about the showing
7 and she decided she wanted to run for Congress,
8 correct?

9 A. Correct.

10 Q. Now you were asked about your role in that
11 campaign, and you said, I think, you were all in.

12 A. In the lieutenant governor one, it was the
13 first time anyone had run for lieutenant governor,
14 and so there were not a lot of people that wanted to
15 work for her. So I was involved, way more involved
16 in the lieutenant governor than the congressional
17 one.

18 Q. I see. Were you involved congressionally
19 as well, though?

20 A. I was, but not as much in the congressional
21 race.

22 Q. And I was little confused about your
23 financial relationship to the campaign. You
24 contributed your 7,500 bucks?

25 A. Yes.

1 Q. Like all other Lisa supporters, correct?

2 A. I did.

3 Q. Did you make an additional financial
4 contribution to her campaign?

5 A. I did.

6 Q. And in what form and how much?

7 A. I told Lisa when she was going to run for
8 Congress that I would contribute half a million
9 dollars.

10 Q. And --

11 A. \$500,000.

12 Q. I have no interest in probing into --

13 A. No, it's okay.

14 Q. Your private -- I'm about to ask a question
15 and I'm prefacing it by saying I'm not interested in
16 your private financial affairs with your wife. But
17 are there joint assets?

18 A. No.

19 Q. So they're separate?

20 A. Our assets are separate, yeah.

21 Q. So you were going to contribute a half a
22 million bucks?

23 A. I did. I put 500,000 into Lisa's campaign
24 for Congress.

25 Q. And did Lisa make a substantial

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1 contribution on her own?

2 A. I think she put in about 500,000 as well.

3 Q. In what form?

4 A. Just wrote checks to the campaign. And my
5 checks went to Lisa and then she put my money into
6 the campaign.

7 Q. So is it fair to say that the candidate
8 herself was not limited by the \$7,500 limit?

9 A. No, she could put in as much she wanted to.

10 Q. She could put in as much as she wanted to?

11 A. Correct. Correct.

12 Q. Now, let's talk about September 2012. So
13 just to get us straight -- and we'll go back and
14 look at some e-mails tomorrow, I just don't have
15 enough time to do it right now.

16 A. Okay.

17 Q. At least to summarize, and we'll look at
18 e-mails tomorrow. So I believe what you said to the
19 prosecutors, the lieutenant governor campaign, there
20 is no doubt that John Rowland was a valuable advisor
21 to your wife. Fair?

22 A. Yes.

23 Q. And I believe you testified that there were
24 at least -- or maybe not -- to the best of your
25 recollection, three or four occasions when you,